

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

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ORDER

**Smt. Leri Bai Vs. State of Rajasthan &
ORS.**

**S.B. CIVIL WRIT PETITION
NO.4042/2002 UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA.**

DATE OF ORDER : 7.7.2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr. Arvind Kachhawa, for the petitioner.
Mr. Rameshwar Dave, Dy.GA, for the respondent-State.
Mr. M.S. Purohit, for the respondent no.4

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BY THE COURT: -

The petitioner Smt. Leri Devi Wd/o late Shri Tulsa Ram filed the present writ petition. In the writ petition, it has been stated that petitioner's son (Karna Ram) was working with the Employee State Insurance Dispensary No.2, Jodhpur. The

petitioner's son was married to one Smt. Sugna Devi on 27th April, 1990, who has been impleaded as respondent no.4. While working with the respondents, the petitioner's son Karna Ram died on 25th Sept., 1991. Thereafter, his wife Smt. Sugna Devi gave birth to a male child on 8.12.1991. Initially, the respondent department granted family pension and other monetary benefits to the respondent no.4. Subsequently she was also granted compassionate appointment on the post of LDC vide order dated 28.7.1993. She is presently posted at E.S.I. Hospital, Jodhpur. It has been stated that after getting compassionate appointment, she got married with one Amritlal Meghwal on 17.1.1999 and started residing with him. Neither is she maintaining the family of deceased nor taking care of her son Lalit Dhandhal.

The respondent no.1 has filed reply to the writ petition. In the reply, it is stated that respondent no.4 Smt. Sugna Devi vide communication dated 6.5.1999 intimated the respondents about her re-marriage solemnized on 17.1.1999. Superintendent of E.S.I. Hospital, Jodhpur thereupon recovered the amount of Rs.52,902/- so far paid to the respondent no.4 as family pension after 17.1.1999. On the question of claim made by the petitioner, who is mother of the deceased Government servant, learned Dy. G.A. Shri Rameshwar Dave, stated that this question was to be examined by the concerned department.

I have considered the arguments advanced by learned counsel for the parties. The respondents in the reply to the writ petition have not denied the fact that originally family pension was granted to Smt. Sugna Devi, widow of the deceased Government servant, who was later on appointed as LDC on compassionate ground. On her remarriage, however, the family pension was discontinued. In the reply, however, they have remained silent as to the entitlement of minor son of the deceased Government servant, who was born on 18.12.1991 and his old aged mother, to receive the family pension.

In the facts and circumstances of the case, the respondents are directed to consider their case for grant of family pension and pass appropriate orders within a period of three months from the date of receipt of copy of this judgment. If they or any of them are found eligible to receive the family pension, their entitlement shall take effect from 17.1.1999.

With the aforementioned observations, the writ petition is allowed.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-